

[See Attachments A and B]. In addition, the undersigned represents that on August 21, 2023, he sent an email to last known email address for Ms. Guthrie. The email notified Ms. Guthrie of the court date, and attached the documents previously affixed to her door. [Attachment C].

Respectfully submitted,

SEEMA NANDA
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/Jonathan Hoffmeister
JONATHAN HOFFMEISTER
Senior Trial Attorney

Attorney for Petitioner, Julie A. Su,
Acting Secretary of Labor
U.S. Department of Labor
Office of the Solicitor
230 South Dearborn Street, Suite 844
Chicago, IL 60604
Telephone: (404) 302-5453
Fax: (312) 353-5698
E-mail: hoffmeister.jonathan@dol.gov

LOCAL COUNSEL:

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United States Attorney

KEVIN ERSKINE
Assistant United States Attorney
211 W. Fort Street, Ste. 2001
Detroit, Michigan 48226
(313) 226-9610
Email: kevin.erskine@usdoj.gov
(P69120)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JULIE A. SU, et al.,

Plaintiff(s) – Petitioner(s)

V.

CASE NO.: 2:22-mc-51667-MFL-APP

ROSIE GUTHRIE, et al.,

Defendant(s) – Respondent(s)

STATE OF MICHIGAN
COUNTY OF OAKLAND ss.:

William N. Proctor, the undersigned, being duly sworn, deposes and says that I was at the time of service over the age of 18 years and not a party to this action.

On 08/18/2023 at 10:55 AM, I served a true copy of a ACTING SECRETARY OF LABOR'S MOTION FOR CONTEMPT, BRIEF IN SUPPORT OF ACTING SECRETARY OF LABOR'S MOTION FOR CONTEMPT, DECLARATION IN SUPPORT OF SECRETARY OF LABOR'S MOTION FOR CONTEMPT, NOTICE OF MOTION HEARING, ORDER upon GENESIS HOMECARE SERVICES, LLC C/O ROSIE GUTHRIE at 41630 BERLY DR., CLINTON TOWNSHIP, MI 48038 in the manner indicated below:

Affixed
08/18/2023

Deponent attempted to perfect service on the Defendant on the below date and time. Deponent found after diligent search that the Defendant was not present at the address:

08/16/2023 at 8:13 PM – Attempt to serve, unsuccessful. A new Ring device was installed. When rang it took 30 seconds for someone to pull the curtains back to see me. Several rings brought no answer, at the door or through the ring device.

08/17/2023 at 1:11 PM – Attempt to serve, unsuccessful. Garage door was open but no vehicles inside and no answer at the door. Waited 35 minutes and a orange station wagon pulled into the garage. A female (black, 30s) got out angrily that I had taken a picture. She stated that Rosie wasn't there but confirmed her residence there. She refused to identify herself and would not accept the documents.

08/18/2023 at 10:55 AM – Attempt to serve, unsuccessful. No answer at the door or through the Ring camera. Documents affixed to the door.


Mailing
08/21/2023

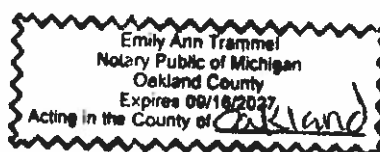
Deponent completed service by depositing a true copy of each properly sealed affixed with first class postage and addressed to the Defendant in an official depository under exclusive care and custody of the U.S. Postal Service.

[X] The envelope was marked "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from and attorney or concerns an action against the person to be served.

Sworn to before me this
21st day of August 2023

Emily Ann Trammel
Notary Public
Emily Ann Trammel


William N. Proctor
2050 South Blvd. #412
Bloomfield Hills, MI 48303
800-637-1805



ATTACHMENT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JULIE A. SU, et al.,

Plaintiff(s) – Petitioner(s)

V.

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ROSIE GUTHRIE, et al.,

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Mailing
08/21/2023

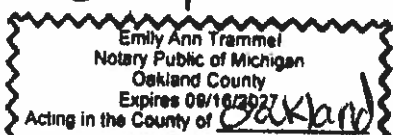
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[X] The envelope was marked "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from and attorney or concerns an action against the person to be served.

Sworn to before me this

21st day of August, 2023

Emily Ann Trammel
Notary Public *Emily Ann Trammel*



[Signature]
William N. Proctor
2050 South Blvd. #412
Bloomfield Hills, MI 48303
800-637-1805

ATTACHMENT B

From: Hoffmeister, Jonathan - SOL
To: "rmg@genesishomecareservices.com"
Subject: Genesis Homecare Services--Wage and Hour Subpoena Enforcement
Date: Monday, August 21, 2023 1:08:00 PM
Attachments: Contempt Packet for Service-Genesis.pdf
Importance: High

Ms. Guthrie,

Attached is a PDF courtesy copy of the documents that were affixed at your residence door on August 18th. Notably in these documents, regarding the Secretary's Motion for Contempt, is an

ORDER for you to personally appear before
District Judge Matthew F. Leitman on
September 26, 2023 at 10:00 AM,
United States District Court, Theodore Levin U.S. Courthouse,
231 W. Lafayette Boulevard, Detroit, Michigan.
Please report to Room 207.

Thank you,

Jonathan Hoffmeister
U.S. Department of Labor
(404) 302-5453 (direct office number)
hoffmeister.jonathan@dol.gov

This message may contain information that is privileged or otherwise exempt from disclosure under applicable law. Do not disclose without consulting with the Office of the Solicitor. If you think that you received this message in error, notify me immediately.

From: Hoffmeister, Jonathan - SOL
Sent: Friday, July 28, 2023 8:36 AM
To: 'rmg@genesishomecareservices.com' <rmg@genesishomecareservices.com>
Subject: RE: Genesis Homecare Services--Wage and Hour Subpoena Enforcement

Ms. Guthrie,

I reached out to you about a year ago asking that you provide documents subpoenaed by the U.S. Department of Labor's Wage and Hour Division involving Genesis Homecare Services. When you did not reply, I filed a lawsuit against you in November 2022, and in April 2023 the Court entered an Order requiring you to provide Wage and Hour with the subpoenaed documents. (The court's order also stopped the statute of limitations from running on Wage and Hour's investigation—it will not restart until you comply with the subpoena). As you have ignored Wage and Hour's Subpoena and the Court's Order, I have now filed a motion with the court asking the Judge to find you in Contempt and assess fees against you (\$2,500 in attorneys fees, plus \$250 for each day of further non-compliance). The subpoena, the Court's Order, and the motion for contempt documents (including proposed contempt order) are attached to this email.

ATTACHMENT C

Once again, I ask you that you provide Wage and Hour with the documents they requested in their subpoena so we can move towards resolving the current subpoena enforcement case. You (or your attorney if you have one) are welcome to call or email me if you have any questions.

Thank you,

Jonathan Hoffmeister
U.S. Department of Labor
(404) 302-5453 (direct office number)
hoffmeister.jonathan@dol.gov

This message may contain information that is privileged or otherwise exempt from disclosure under applicable law. Do not disclose without consulting with the Office of the Solicitor. If you think that you received this message in error, notify me immediately.

From: Hoffmeister, Jonathan - SOL
Sent: Tuesday, September 13, 2022 2:39 PM
To: rmg@genesishomecareservices.com
Subject: Genesis Homecare Services--Wage and Hour Subpoena Enforcement

Ms. Guthrie,

I'm an attorney with the U.S. Department of Labor, and I will be representing the Department's Wage and Hour Division regarding a subpoena for documents that Wage and Hour served you on June 15, 2022. My understanding is that you ignored Wage and Hour's Subpoena after previously providing only a small portion of the documents Wage and Hour requested from you. Requested information that is still outstanding includes (but isn't limited to) pay records, time records (including a box of records you showed the Wage and Hour investigator but refused to let her copy), and the name, address and phone number of Genesis Homecare Services' workers. Wage and Hour needs the information requested in its subpoena in order to determine whether Genesis Homecare Services is in compliance with the Fair Labor Standards Act (FLSA).

As I believe Wage and Hour already noted in a letter to you, Congress authorized it to "investigate and gather data regarding the *wages, hours, and other conditions and practices of employment* in any industry subject to this chapter, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate..." (FLSA Sec. 11(a)). The law also provides that Wage and Hour may utilize a subpoena to obtain documents and question witnesses. (FLSA Sec. 9).

It is my understanding that you provided Wage and Hour with only five sample time/ payroll sheets, and that you outright refused to provide worker information "because the caregivers did not agree for [you] to give out their information." Please understand that it is not sufficient for an employer to pick and choose what records it wants to provide Wage and Hour during an investigation. (See FLSA

Section 11). Nor can an employer simply declare that its workers are independent contractors and then refuse to provide information the employer has about the witnesses who could corroborate or refute the claim. (See e.g. FLSA Sec. 9 and 11).

The purpose of this email is to see if you will voluntarily comply with the subpoena and submit the remaining documents Wage and Hour requested without me having to initiate a court action against Genesis Homecare Services in U.S. District Court. If you are willing to provide these documents to avoid the time and expense of litigation, please let me know, and then provide the documents within 10 days of this email. If you are not willing—I plan to file an action in U.S. District Court shortly hereafter.

Thank you for your consideration of this request to resolve this matter short of litigation. And if you are represented by an attorney, please forward this email to them and ask them to provide me their contact information.

Sincerely,

Jonathan Hoffmeister
U.S. Department of Labor
(404) 302-5453 (direct office number)
hoffmeister.jonathan@dol.gov

Until further notice, in light of the current restrictions put in place by federal, state, and local governments in response to COVID-19, please direct all correspondence to to me via phone or email. Please do not send correspondence by paper mail, courier, or fax. If your correspondence is too large for email, or you have limited access to email, please contact me to discuss an alternate means of delivery.

This message may contain information that is privileged or otherwise exempt from disclosure under applicable law. Do not disclose without consulting with the Office of the Solicitor. If you think that you received this message in error, notify me immediately.